IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

WP(C).No. 33212 of 2006(D)

OS.1996/2001 of III ADDL.M.C.EKM (RENT CONTROL)

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PETITIONERS:

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1. BABU.C.GEORGE, S/O.GEORGE,
   CHANDRATHIL HOUSE, CIVIL LINE ROAD,
   PALARIVATTOM.

2. MARIYAMMA BABU, W/O.BABU C.GEORGE,
   CHANDRATHIL HOUSE, CIVIL LINE ROAD,
   PALARIVATTOM.

BY ADV. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP

RESPONDENTS:

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1. MR.N.J.MATHEW, S/O.N.T.JOSEPH,
   NEDIYATHARA (KALAVATH ROAD), PALARIVATTOM,
   KOCHI-25.

2. JEEVAN POTTAS, S/O.ITTAN PILLAI,
   BAVUNKAL, CHAKKOOR KARA, CHAKKOOR VILLAGE,
   MUVATTUPUZHA TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13 /12 / 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO. 33212 OF 2006

DATED THIS THE 13th DAY OF DECEMBER, 2006

JUDGMENT

Petitioners are defendants 1 and 2 in O.S.1996/01 on the file of Addl. Munsiff Court, Ernakulam. First respondent is the plaintiff and second respondent is the third defendant in the suit. When the suit was included in the special list, petitioner filed Ext.P9 application for removal of the suit from the special list for hearing and disposing I.A.2536/06. Petitioner had earlier filed I.A.2536/06, to set aside the report and to appoint another Commissioner. It was dismissed by learned Munsiff holding that Commissioner has submitted a report and without setting aside that report another Commissioner cannot be appointed. Petitioner challenged that order before this Court in W.P. (c)20324/06. As per Ext.P8 judgment, the writ petition was disposed. Munsiff was directed to consider I.A.2536/06 afresh and decide whether the report is to be remitted back to the Commissioner.

2. The grievance of petitioners is that without considering I.A.2536/06, learned Munsiff is proceeding with the suit as the application to remove the suit from the special list was dismissed.

As per judgment in W.P.(c)20324/06 learned Munsiff was

directed to dispose I.A.2536/06 afresh by considering the question whether the objections raised are to be verified by the Commissioner. As it was not disposed, this writ petition is disposed directing the learned Munsiff to dispose I.A.2536/06 without any further delay.

M.SASIDHARAN NAMBIAR,JUDGE

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